

Table of Contents

Preface	xiii
Abbreviations	xv
Contributors	xvii

1. SOURCES

Geoffrey MacCormack

I. Introduction	1
II. The Three Components of Private Law (J.1.2 pr - 2)	2
(a) Natural law (J.1.2 pr)	2
(b) The law of all peoples (J.1.2.1)	4
(c) The law of the state (J.1.2.2)	5
III. Sources of Written Law (J.1.2.3 - 8)	6
(a) Statutes (J.1.2.4)	7
(b) Resolutions of the senate	8
(c) Imperial pronouncements (J.1.2.6)	8
(d) Edicts of the magistrates (J.1.2.7)	10
(e) Juristic opinion (J.1.2.8)	11
IV. Custom (J.1.2.9, 11)	14
V. Divisions of Private Law (J.1.2.12)	16
Select Bibliography	17
Notes	17

2. PERSONS

O.F. Robinson

I. Slavery (J.1.3 - 8)	18
(a) Enslavement (J.1.3 - 4)	18
(b) The legal condition of slaves (J.1.3.5; 1.8.1 - 2)	19
(c) Manumission (J.1.5 - 7)	20
II. Family Authority (J.1.8 - 9, 11; G.1.108 - 123, 135 - 141)	22
(a) Paternal power acquired by birth (J.1.9 pr, 2 - 3)	23
(b) Paternal power acquired by adoption (J.1.11; 1.12.8)	24
(c) Paternal power acquired by legitimation (J.1.10.13)	26
(d) Marital subordination (G.1.108 - 115b, 118, 123, 136 - 137a)	26
(e) Bondage (G.1.116 - 123, 135 - 135a, 138 - 141)	27
III. Marriage (J.1.9.1; 1.10; G.1.108 - 113, 115b, 136 - 137a, 148)	27
(a) Free marriage (J.1.9.1; 1.10)	27

Table of Contents

(b) Marriage with marital subordination (G.1.108 - 113, 115b, 136 - 137a, 148)	29
IV. Emergence from Family Authority (J.1.12, 16)	30
(a) By the death of the head of the family (J.1.12 pr - 3, 5)	30
(b) Status-loss (J.1.16)	31
(c) By emancipation (J.1.12.6 - 10)	31
V. Guardianship and Supervision (J.1.13 - 26; G.1.144 - 145, 148 - 154, 157, 168 - 171, 173 - 181, 183, 190 - 195c)	32
(a) Creation of guardianship (J.1.13.3 - 5; 1.14 - 15; 1.17.20)	33
(b) Endorsement by a guardian (J.1.21)	35
(c) Excuses (J.1.25)	35
(d) Guardians' liability and the termination of guardianship (J.1.22, 24, 26)	36
(e) Supervision of minors (J.1.23)	38
(f) Guardianship of women (G.1.144 - 145, 148 - 154, 157, 168 - 171, 173 - 181, 183, 190 - 195c)	38
Select Bibliography	39
Notes	39

3. PROPERTY

D.L. Carey Miller

I. Introduction	42
(a) Real and personal actions and rights (J.4.6.1)	42
(b) Classifications and distinctions (J.2.1, 2 pr - 2)	43
II. Ownership and Possession	45
(a) Ownership	45
(b) Possession	46
(c) Remedies (J.4.6.1; 4.15)	47
III. Acquisition of Ownership	49
(a) Introduction (J.2.1.11, 40)	49
(b) Derivative acquisition: mancipation (G.1.119 - 121)	50
(c) Derivative acquisition: assignment in court (G.2.24 - 25, 28 - 31)	51
(d) Derivative acquisition: delivery (J.2.1.40 - 46)	51
(e) Original acquisition: usucapion (J.2.6; 4.6.4)	57
(f) Original acquisition: occupation (J.2.1.12 - 17, 39, 46 - 48)	58
(g) Original acquisition: accession (J.2.1.20 - 24, 26, 29 - 34)	60
(h) Original acquisition: specification (J.2.1.25)	62
(i) Original acquisition: mixture and fusion (J.2.1.26 - 28)	63
(j) Original acquisition: fruits (J.2.1.35 - 38)	63
IV. Lesser Real Rights	65
(a) Introduction	65
(b) Personal servitudes (J.2.1.38; 2.4 - 5)	66
(c) Praedial servitudes (J.2.3)	67

(d) Real security (J.3.14.4; 4.6.7)	70
(e) Other lesser rights (J.3.24.3)	74
Select Bibliography	75
Notes	75

4. SUCCESSION

William M. Gordon

I. Introduction (J.2.9.6)	80
(a) Universal succession	80
(b) The heir	81
(c) The heir as executor	82
(d) Testate and intestate succession	82
II. Testate Succession on Death (J.2.10 - 25)	83
(a) Types of will (J.2.10 - 11)	84
(b) Capacity to make a will (J.2.12)	88
(c) Disinheriting (J.2.13)	89
(d) Appointment of heirs and substitute heirs (J.2.14 - 16)	91
(e) Invalidation of wills (J.2.17 - 18)	95
(f) Types of heir (J.2.19)	100
(g) Legacies (J.2.20 - 22)	102
(h) Trusts and codicils (J.2.23 - 25)	106
III. Intestate Succession on Death (J.3.1 - 9)	109
(a) Succession to free men and women (J.3.1 - 6)	110
(b) Succession to freedmen and freedwomen (J.3.7 - 8)	115
(c) Estate-possession (J.3.9)	116
(d) Justinian's scheme of intestate succession in the <i>Novels</i>	117
IV. Other Cases of Universal Succession (J.3.10 - 12)	118
(a) Acquisition through adrogation (J.3.10)	118
(b) Assignment to preserve freedom (J.3.11)	119
(c) Obsolete cases of universal succession (J.3.12)	120
Select Bibliography	122
Notes	125

5. OBLIGATIONS

Robin Evans-Jones

Geoffrey MacCormack

I. Obligations (J.3.13)	127
II. Obligations Contracted by Conduct (J.3.14)	128
(a) Introduction	128
(b) <i>Mutuum</i> (J.3.14 pr)	129
(c) <i>Commodatum</i> (J.3.14.2)	130
(d) Deposit (J.3.14.3)	131
(e) Real security (J.3.14.4)	133

Table of Contents

III. Obligations by Words and their Applications (J.3.15 - 20)	134
(a) Stipulations (J.3.15)	134
(b) Multi-party stipulations (J.3.16)	138
(c) Stipulations taken by slaves (J.3.17)	140
(d) Classification of stipulations (J.3.18)	141
(e) Ineffective stipulations (J.3.19)	142
(f) Guarantors (J.3.20)	145
IV. Obligations by Writing (J.3.21)	148
V. Obligations by Agreement (J.3.22 - 26)	150
(a) Sale (J.3.23)	151
(b) Hire (J.3.24)	159
(c) Partnership (J.3.25)	162
(d) Mandate (J.3.26)	165
VI. Innominate Contracts and Pacts	168
VII. Obligations as though from Contract (J.3.27)	169
VIII. Obligations Acquired through Others (J.3.28)	171
IX. Discharge of Obligations (J.3.29)	172
X. Obligations from Delict (J.4.1 - 4)	174
(a) Introduction	174
(b) Theft (J.4.1)	175
(c) Things taken by force (J.4.2)	183
(d) The Aquilian Act (J.4.3)	184
(e) Contempt (J.4.4)	192
(f) Praetorian delicts	197
XI. Obligations as though from Delict (J.4.5)	197
Select Bibliography	200
Notes	203

6. ACTIONS

Ernest Metzger

I. 'Action' (J.4.6 pr; 4.15)	208
II. The Formulary Procedure	212
III. The Law of Actions	214
IV. Real and Personal Actions (J.4.6.1 - 15, 20)	217
V. State-Law and Honorary Actions (J.4.6.3 - 13)	220
VI. Restorative, Penal, and Hybrid Actions (J.4.6.16 - 19; 4.12.1)	223
VII. Other Classifications (J.4.6.28 - 30; 4.8)	226
Select Bibliography	227
Notes	227

7. CRIMINAL TRIALS*O.F. Robinson*

I. Introduction (J.4.18 pr, 1, 12)	229
II. Capital and Non-Capital Crimes (J.4.18.2)	230
(a) Banishment (J.1.16.1 - 2, 6)	230
(b) Upper and lower classes	231
(c) Penal slavery (J.1.12.3; 1.16.1; 3.12.1)	232
(d) Lesser penalties (J.1.12.2; 1.16.5; 1.26.8)	232
III. Specific Offences (J.4.18.3 - 11)	233
IV. Criminal Courts	236
V. Procedural Changes	237
VI. Summary	238
Select Bibliography	239
Notes	239
General Bibliography	243
Glossary	245
English-Latin Word List	256
Cited Passages in the <i>Institutes</i>	260
Table of Authorities	264
Subject Index	270